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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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05/30/2000

Andrew Hausman

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29858

7590

04/17/2007

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EXAMINER

COLBERT, ELLA

ART UNIT

PAPER NUMBER

3694

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/584,045

Applicant(s)

ANDREW HAUSMAN

Examiner

Ella Colbert

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17, 19, 20 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 19, 20, and 34-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 15-17, 19, 20, and 34-37 are pending. Claims 15, 16, 19, and 34-36 have been amended in this communication filed 12/28/06 entered as Response After Non-Final Action, IDS, and Request for Extension of Time.
2. The IDS filed 12/28/06 is missing from the file. Applicant is respectfully requested to resubmit the IDS for review.
3. The 35 USC 112 Second Paragraph Rejection for claims 15, 16, 19, 20, and 34-37 still remain rejected as set forth here below.

Claim Objections

4. Claims 15, 16, 19, and 34-37 are objected to because of the following informalities: Claim 34 in the fourth claim limitation recites "not executing a trade ...;". This claim limitation should begin with "matching forwards trading orders by not executing a trade of any of the forwards trading orders of the series ...;" and the fifth claim limitation should recite "executing all trades of all executable orders of the series after all orders of the series have been selected". Claims 35 -37 have a similar problem. A method claim should begin with an "ing" word in order to be in the proper method claim format. Appropriate correction is required.

Claim 15, the preamble, line 5 recites "program instructions executable in at least one of the computer and one or more". This line should recite "program instructions executable in at least one of the computers and one or more". Claim 16 and claim 19 (claim limitation three) have a similar problem.

Claim 36, the last claim limitation recites "of the availability of new forwards ... size terms as a the executed trade;". This line should recite "of the availability of new forwards ... size terms as the executed trade;".

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 15, 16, 19, 20, and 34-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15, the last claim limitation recites "the program instructions further enable the trading". This claim limitation is not a positive claim recitation. The claim limitation to be a positive claim recitation should recite "the program instructions further comprise the trading system not executing any trade ..., ...".

Also it is noted "after all orders in the series have been selected is redundant in the claim limitation.

Claim 16, limitations three and four; claim 19, limitations three and four; and claim 20, the preamble have a similar problem with "enable" and "enabling".

Claims 19 and 34-36 contain a "wherein" clause.

Claims 19 and 34-36 contain a clause of intended use in the independent claims which renders the claims indefinite. Specifically, claim 19, page 5, lines 1-2 recites "... wherein the difference between the first and second prices represents the spread ...".

The Examiner considers these limitations to only recite what is expected to happen, a desired result, or an intended use. The MPEP discusses a type of limitation in reference to "wherein" clauses. MPEP § 2111.04 states:

Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. However, examples of claim language, although not exhaustive, that may raise a question as to the limiting effect of the language in a claim are:

- (A) "adapted to" or "adapted for" clauses;
- (B) "wherein" clauses; and
- (C) "whereby" clauses.

Claim 37, the second claim limitation reciting "providing for a function, selectable at user stations, for a party to add ...". This portion of the claim limitation is vague and unclear. It is not understood what the provided function is and what is selectable at user stations". Does Applicant mean a party can add a new forwards trading order by making a selection from the screen of the users computers which provides an input function? The fourth claim limitation is also vague and unclear reciting "in response to selection of the function." It is unclear and vague what is meant by "selection of the function".

Claims 15, 16, 19, 20, and 34-37 it is unclear in the claim language what is meant by "user station" and "user stations". The language would be better as "user

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computer" and "user computers" unless "user station" and "user stations" mean something other than "user computer" and "user computers".

Claim 17 is also rejected because of the dependency from a rejected base claim.

A prior art rejection has not been given in this Office Action because of the remaining claim objections and 35 USC 112 second paragraph rejections.

After these objections and rejections have been overcome, and extensive search will be made to determine whether the application can be allowed.

Inquiries


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 16, 2007


ELLA COLBERT
PRIMARY EXAMINER